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PTO/SB/61 (11-03)

Approved for use through 07/31/2006. OMB 0651-0031

OFFICE OF PETITIONS

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNAVOIDABLY UNDER 37 CFR 1.137(a)

Docket Number (Optional)

RELGART.001A

First Named Inventor: Ross Elgart

Art Unit: 2175

Application Number: 09/927,851

Examiner: Jacques Veillard

Filed: 8/10/2001

Title: Database System And Method For Organizing And Sharing Information

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact  
Petitions Information at (703) 305-9382.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

- ☐ Small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(l)). Applicant claims small entity status.  
See 37 CFR 1.27.
- ☒ Other than small entity - fee \$ 110.00 (37 CFR 1.17(l)).

2. Reply and/or fee

- A. The reply and/or fee to the above-noted Office action in the form of  
Amendment and Response to 7/15/03 Office Action (identify the type of reply):

- ☒ has been filed previously on 11/17/03 and 1/27/04.
- ☐ is enclosed herewith.

- B. The issue fee of \$ \_\_\_\_\_

- ☐ has been filed previously on \_\_\_\_\_
- ☐ is enclosed herewith.

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This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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# **PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)**

## 3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

3/4/2004

Date

*Peter M. Midgley*  
Signature

208-433-9121

Telephone Number

Peter M. Midgley

Typed or printed name

44,239

Registration Number, if applicable

P.O. Box 170440

Address

Boise, ID 83717-0440

Address

Enclosure ☒ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unavoidable delay

☐

## **CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this correspondence is being:

- ☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

- ☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

3/4/2004

Date

*Peter M. Midgley*  
Signature

Peter M. Midgley

Typed or printed name of person signing certificate

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

3/4/2004

Date



Signature

44,239

Registration Number, if applicable

Peter M. Midgley

Typed or printed name

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

A response to the 7/15/03 Office Action was filed on 11/17/03, together with a check in the amount of \$110 to cover the fee for a one-month extension of time to file the response. On 1/27/04, the Examiner notified Petitioner, as counsel of record, that the \$110 check filed on 11/17/03 was not received by the Patent and Trademark Office. Prior to 1/27/04, Petitioner had received no notice and was unaware that the \$110 check had not been received by the PTO.

On 1/27/04, the Examiner informed Petitioner that the deficiency associated with the 11/17/03 response could be cured by promptly re-filing the response, together with the \$110 fee. Accordingly, a copy of the 11/17/03 response was promptly re-filed with the \$110 fee on 1/27/04, and was received by the PTO on 1/29/04.

On 2/3/04, the PTO mailed a document entitled "Informality Regarding Payment Of Fee" (Paper No. 10), which indicated that the 11/17/03 response had not been entered, and Applicant was given the remainder of the set period for response or one month from the date of the letter, whichever was longer, within which to remit the \$110 fee. Because the fee had been remitted on 1/27/04, which was within the allotted time period, Petitioner expected that 11/17/03 response would be entered.

On 3/1/04, Petitioner contacted the Examiner via telephone to confirm that the 11/17/03 response had been entered. During this conversation, Petitioner learned that, contrary to the Examiner's previous statements and the statements in Paper No. 10, the 11/17/03 response had not been entered. Petitioner also learned that, because the statutory period for response to the 7/15/03 Office Action had expired, the application had become abandoned.

In summary, prior to 1/27/04, Petitioner was unaware that the PTO had not received the \$110 check accompanying the 11/17/03 response. From 1/27/04 to 3/1/04, based on communications from the PTO, Petitioner believed that the appropriate steps were being taken to cure the deficiency associated with the 11/17/03 response. On 3/1/04, Petitioner learned for the first time, via telephone, that the application had become abandoned.

Based on the foregoing facts, Petitioner respectfully submits that the abandonment of the present application was unavoidable under 37 CFR 1.137(a). Nevertheless, if the Commissioner declines to grant this Petition pursuant to 37 CFR 1.137(a), Petitioner respectfully requests that, in the alternative, the Petition be considered under 37 CFR 1.137(b). To support such a petition, Petitioner hereby states that, based on the foregoing facts, the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was, at a minimum, unintentional.

If necessary, please charge any additional fees (e.g., the additional fee necessary to consider this Petition under 37 CFR 1.137(b), if necessary) and credit any overpayments (e.g., the \$110 fee submitted on 1/27/04, if such submission was improper or unnecessary) to Deposit Account No. 503030.